C.J.'S Court

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Original Jurisdiction

Dated: Nainital: the 14th day of November,2002

Criminal Misc. Bail Application No.1046 of 2002

Order on the Bail Application

CRIMINAL SIDE

Devender Singh @ Mama……. Applicant

Versus

State of Uttaranchal…… Opposite party.

Arising Out of Crime No.119 of 1999
Under Sections: 307/504 ,I.P.C.
Police Station: Bhimtal
DISTRICT: Nainital.

By the Court

Hon.A.A. Desai,C.J.

Heard Sri Yogesh Bhasin and Smt. Pushpa Joshi, learned counsel for the applicant, Sri D.K.Sharma, Learned A.G.A. and Sri J.C.Joshi, learned counsel for the complainant.

The incident occurred on 27.6.1999 at about 8 a.m. on the road. Complainant Deepak sustained injured as reported by the fire arm. This led to prosecution against the accused Devendra Singh alias Mama for the offence punishable under section 307 ,I.P.C. Peculiarity of the case is that the accused was arrested though named in the F.I.R. after more than three years i.e. on 25.09.2002. The Chief Judicial Magistrte has sent him to the judicial custody. He applied for bail. However, the Sessions Judge rejected the same. Hence, the instant application.

Sri Yogesh Bhasin alongwith Mrs. Pushpa Joshi, learned counsel for the applicant, principally argued that the ocular testimony as reflected in the first information report relating to causing of injuries does not get support from the medical evidence. There is nothing on record as urged that the injuries sustained by Deepak were caused by fire arms as disclosed in the

first information report. It is asserted by the learned counsel for the applicant that there has been a business rivalry between the accused and the complainant. Learned counsel, therefore, canvassed that the entire incident is concocted to falsely implicate the accused. He, therefore, pressed for bail.

The case has a very chequered and unfortunate history. The plea regarding the nature of injuries sustained by the the complainant, as canvassed, would be examined during the course of trial, At this stage, it may be mentioned that as a result of injuries sustained, one leg of the complainant has been amputated.

Undisputedly, as asserted by the learned counsel for the accused-applicant there has been a business rivalry between the accused and the victim. Undisputedly further the accused is well known and acquainted with the victim and the witness (Pappu). Moreover, the incident occurred in the morning at 8 a.m. on the road. At this stage, I do not see any possibility of mistaken identity. Moreover, the F.I.R. was lodged without loss of time i.e. on the same day, wherein the accused has been implicated as a person responsible for causing the injuries. Undisputedly, the complainant has actually sustained the injuries resulting in amputation of his leg. As such, at this stage concoction of the prosecution story to falsely implicate the accused has hardly and basis.

Moreover, the case was already fixed for recording of evidence. It is now adjourned as reported.

Having regard to these aspects, the applicant is not entitled to bail. The trial Court is directed to expedite the the trial and conclude the same at the earliest.

The bail application is, therefore, rejected.

(A.A. Desai, C.J.)

Dt.14.11.2002

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